

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

John Alan Miller,)	C/A No.: 2:09-2407-JFA-RSC
)	
Plaintiff,)	
vs.)	ORDER
)	
South Carolina Department of Corrections;)	
Cecilia Reynolds, Warden; Assistant Warden)	
NFN McKay; Assistant Warden NFN)	
Washington,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, John Alan Miller, is presently incarcerated at the Kershaw Correctional Institution of the South Carolina Department of Corrections (“SCDC”). He initiated this action pursuant to 42 U.S.C. § 1983 contending that the defendants have violated his constitutional rights. Specifically, the plaintiff alleges that (1) his detainment in SCDC is unlawful, (2) his sentence is illegal and has expired; (3) he has been denied recreation, medication, religious freedom, and court access; (4) he has been placed on excessive lock down; (5) his documents have been confiscated; (6) and he has been given an improper inmate classification. He seeks monetary damages and injunctive relief.

The Magistrate Judge assigned to this action¹ has prepared a Report and

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

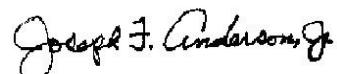
Recommendation wherein he suggests that because the plaintiff has not exhausted his administrative remedies, this case should be summarily dismissed. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation and without a hearing.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on September 18, 2009. The plaintiff filed a timely reply to the Report, however it appears to be merely a restatement of those claims set forth in his original complaint.

The plaintiff has also filed a motion to amend his complaint to delete the two named individual defendants and add another individual. The court denies this motion.

After a careful review of the record, the applicable law, the Report and Recommendation, and the objections thereto, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.



Joseph F. Anderson, Jr.
United States District Judge

November 24, 2009
Columbia, South Carolina